

**Senate Study Bill 1082 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
REVENUE BILL)

**A BILL FOR**

1 An Act relating to the technical administration of the tax  
2 and related laws by the department of revenue, including  
3 the administration of income taxes, sales and use taxes,  
4 franchise fees, property taxes, the environmental protection  
5 charge, and notification of annexation or severance by  
6 cities and including retroactive applicability provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I  
INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The tax credits for increasing research activities available under sections 15.335, ~~15A.9~~, 422.10, and 422.33.

Sec. 2. Section 15.119, subsection 2, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 3. Section 15.293A, subsection 2, paragraph f, Code 2011, is amended to read as follows:

*f.* A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 4. Section 15.329, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 5. Section 15.333, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph.

Sec. 6. Section 15.393, subsection 2, paragraph a, subparagraph (3), Code 2011, is amended to read as follows:

(3) After verifying the eligibility for a tax credit under this paragraph "a", the department of economic development shall issue a film, television, and video project promotion

1 program tax credit certificate to be attached to the person's  
2 tax return. The tax credit certificate shall contain the  
3 taxpayer's name, address, tax identification number, the date  
4 of project completion, the amount of credit, other information  
5 required by the department of revenue, and a place for the name  
6 and tax identification number of a transferee and the amount  
7 of the tax credit being transferred. Tax credit certificates  
8 issued under this paragraph "a" may be transferred to any person  
9 or entity. Within ninety days of transfer, the transferee  
10 shall submit the transferred tax credit certificate to the  
11 department of revenue along with a statement containing the  
12 transferee's name, tax identification number, and address,  
13 and the denomination that each replacement tax credit  
14 certificate is to carry and any other information required by  
15 the department of revenue. Within thirty days of receiving  
16 the transferred tax credit certificate and the transferee's  
17 statement, the department of revenue shall issue one or more  
18 replacement tax credit certificates to the transferee. Each  
19 replacement tax credit certificate must contain the information  
20 required for the original tax credit certificate and must have  
21 the same expiration date that appeared in the transferred  
22 tax credit certificate. Tax credit certificate amounts  
23 of less than the minimum amount established by rule of the  
24 department of economic development shall not be transferable.  
25 A tax credit shall not be claimed by a transferee under this  
26 paragraph "a" until a replacement tax credit certificate  
27 identifying the transferee as the proper holder has been  
28 issued. The transferee may use the amount of the tax credit  
29 transferred against the taxes imposed in chapter 422, divisions  
30 II, III, and V, and in chapter 432, and against the moneys and  
31 credits tax imposed in section 533.329, for any tax year the  
32 original transferor could have claimed the tax credit. Any  
33 consideration received for the transfer of the tax credit shall  
34 not be included as income under chapter 422, divisions II, III,  
35 and V, ~~under chapter 432, or against the moneys and credits tax~~

1 ~~imposed in section 533.329.~~ Any consideration paid for the  
2 transfer of the tax credit shall not be deducted from income  
3 under chapter 422, divisions II, III, and V, ~~under chapter~~  
4 ~~432, or against the moneys and credits tax imposed in section~~  
5 ~~533.329.~~

6 Sec. 7. Section 15.393, subsection 2, paragraph b,  
7 subparagraph (2), Code 2011, is amended to read as follows:

8 (2) After verifying the eligibility for a tax credit under  
9 this paragraph "b", the department of economic development  
10 shall issue a film, television, and video project promotion  
11 program tax credit certificate to be attached to the person's  
12 tax return. The tax credit certificate shall contain the  
13 taxpayer's name, address, tax identification number, the date  
14 of project completion, the amount of credit, other information  
15 required by the department of revenue, and a place for the name  
16 and tax identification number of a transferee and the amount  
17 of the tax credit being transferred. Tax credit certificates  
18 issued under this paragraph "b" may be transferred to any person  
19 or entity. Within ninety days of transfer, the transferee  
20 shall submit the transferred tax credit certificate to the  
21 department of revenue along with a statement containing the  
22 transferee's name, tax identification number, and address,  
23 and the denomination that each replacement tax credit  
24 certificate is to carry and any other information required by  
25 the department of revenue. Within thirty days of receiving  
26 the transferred tax credit certificate and the transferee's  
27 statement, the department of revenue shall issue one or more  
28 replacement tax credit certificates to the transferee. Each  
29 replacement tax credit certificate must contain the information  
30 required for the original tax credit certificate and must have  
31 the same expiration date that appeared in the transferred  
32 tax credit certificate. Tax credit certificate amounts  
33 of less than the minimum amount established by rule of the  
34 department of economic development shall not be transferable.  
35 A tax credit shall not be claimed by a transferee under this

1 paragraph "b" until a replacement tax credit certificate  
2 identifying the transferee as the proper holder has been  
3 issued. The transferee may use the amount of the tax credit  
4 transferred against the taxes imposed in chapter 422, divisions  
5 II, III, and V, and in chapter 432, and against the moneys and  
6 credits tax imposed in section 533.329, for any tax year the  
7 original transferor could have claimed the tax credit. Any  
8 consideration received for the transfer of the tax credit shall  
9 not be included as income under chapter 422, divisions II, III,  
10 and V, ~~under chapter 432, or against the moneys and credits tax~~  
11 ~~imposed in section 533.329.~~ Any consideration paid for the  
12 transfer of the tax credit shall not be deducted from income  
13 under chapter 422, divisions II, III, and V, ~~under chapter~~  
14 ~~432, or against the moneys and credits tax imposed in section~~  
15 ~~533.329.~~

16 Sec. 8. Section 422.7, subsection 9, Code 2011, is amended  
17 to read as follows:

18 9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic  
19 biofuels credit allowable for the tax year under section 40  
20 of the Internal Revenue Code to the extent that the credit  
21 increased federal adjusted gross income.

22 Sec. 9. Section 422.33, subsection 5, paragraph f, Code  
23 2011, is amended by striking the paragraph.

24 Sec. 10. Section 422.33, subsection 12, paragraph b, Code  
25 2011, is amended to read as follows:

26 *b.* The taxes imposed under this division shall be reduced by  
27 investment tax credits authorized pursuant to ~~sections~~ section  
28 ~~15.333, 15A.9, subsection 4,~~ and section 15E.193B, subsection  
29 6.

30 Sec. 11. Section 422.35, subsection 7, Code 2011, is amended  
31 to read as follows:

32 7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic  
33 biofuels credit allowable for the tax year under section 40  
34 of the Internal Revenue Code to the extent that the credit  
35 increased federal taxable income.

1     Sec. 12. Section 422.36, subsection 4, Code 2011, is amended  
2 to read as follows:

3     4. Foreign and domestic corporations shall file a copy of  
4 their federal income tax return for the current tax year with  
5 the return required by this section.

6     Sec. 13. Section 422.89, subsection 3, unnumbered paragraph  
7 1, Code 2011, is amended to read as follows:

8     An amount equal to ~~ninety~~ one hundred percent of the tax for  
9 the taxable year computed by placing on an annualized basis the  
10 taxable income:

11    Sec. 14. REPEAL. Section 15A.9, Code 2011, is repealed.

12    Sec. 15. RETROACTIVE APPLICABILITY. The following  
13 provision or provisions of this division of this Act apply  
14 retroactively to January 1, 2011, for tax years beginning on  
15 or after that date:

16    1. The section of this Act amending section 422.89.

17                                   DIVISION II

18                                   SALES TAXES

19    Sec. 16. Section 423.3, subsection 40, Code 2011, is amended  
20 to read as follows:

21    40. The sales price from the sale of automotive fluids  
22 to a retailer to be used either in providing a service which  
23 includes the installation or application of the fluids in  
24 or on a motor vehicle, which service is subject to section  
25 423.2, subsection 6, or to be installed in or applied to a  
26 motor vehicle which the retailer intends to sell, which sale  
27 is subject to section ~~423.26~~ 321.105A. For purposes of this  
28 subsection, automotive fluids are all those which are refined,  
29 manufactured, or otherwise processed and packaged for sale  
30 prior to their installation in or application to a motor  
31 vehicle. They include but are not limited to motor oil and  
32 other lubricants, hydraulic fluids, brake fluid, transmission  
33 fluid, sealants, undercoatings, antifreeze, and gasoline  
34 additives.

35    Sec. 17. Section 423.36, subsection 3, paragraph a, Code

1 2011, is amended to read as follows:

2     a. The department shall grant and issue to each applicant  
3 a permit for each place of business in this state where sales  
4 or use tax is collected. A permit is not assignable and is  
5 valid only for the person in whose name it is issued and for the  
6 transaction of business at the place designated or at a place  
7 of relocation within the ~~state~~ same county if the ownership  
8 remains the same.

9     Sec. 18. Section 423.57, Code 2011, is amended to read as  
10 follows:

11     **423.57 Statutes applicable.**

12     The director shall administer this subchapter as it relates  
13 to the taxes imposed in this chapter in the same manner and  
14 subject to all the provisions of, and all of the powers,  
15 duties, authority, and restrictions contained in sections  
16 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22,  
17 423.23, 423.24, 423.25, ~~423.28~~, 423.29, 423.31, 423.32, 423.33,  
18 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40,  
19 423.41, and 423.42, section 423.43, subsection 1, and sections  
20 423.45, 423.46, and 423.47.

21     Sec. 19. REPEAL. Section 423.28, Code 2011, is repealed.

22                     DIVISION III

23                     PROPERTY TAXES

24     Sec. 20. Section 427B.4, Code 2011, is amended to read as  
25 follows:

26     **427B.4 Application for exemption by property owner.**

27     1. a. An application shall be filed for each project  
28 resulting in actual value added for which an exemption is  
29 claimed. The first application for exemption shall be filed  
30 by the owner of the property with the ~~local assessor~~ governing  
31 body of the city or county in which the property is located by  
32 February 1 of the assessment year ~~in which the value added is~~  
33 ~~first assessed for taxation~~ for which the exemption is first  
34 claimed, but not later than the year in which all improvements  
35 included in the project are first assessed for taxation, or the

1 following two assessment years.

2 b. Applications for exemption shall be made on forms  
3 prescribed by the director of revenue and shall contain  
4 information pertaining to the nature of the improvement, its  
5 cost, the estimated or actual date of completion, whether the  
6 exemption schedules described in section 427B.3 or an alternate  
7 schedule adopted pursuant to section 427B.1 will be elected,  
8 and any other information deemed necessary by the director of  
9 revenue.

10 2. a. A person may submit a proposal to the city council  
11 of the city or the board of supervisors of a county to receive  
12 prior approval for eligibility for a tax exemption on new  
13 construction. The city council or the board of supervisors, by  
14 ordinance, may give its prior approval of a tax exemption for  
15 new construction if the new construction is in conformance with  
16 the zoning plans for the city or county. The prior approval  
17 shall also be subject to the hearing requirements of section  
18 427B.1.

19 b. Prior approval received under this subsection does not  
20 entitle the owner to exemption from taxation until the new  
21 construction has been completed and found to be qualified real  
22 estate. However, if the tax exemption for new construction is  
23 not approved, the person may submit an amended proposal to the  
24 city council or board of supervisors to approve or reject.

25 Sec. 21. RETROACTIVE APPLICABILITY. This division of this  
26 Act applies retroactively to January 1, 2011, for assessment  
27 years beginning on or after that date.

28 DIVISION IV

29 MISCELLANEOUS

30 Sec. 22. Section 364.2, subsection 4, paragraph f, Code  
31 2011, is amended to read as follows:

32 f. (1) A franchise fee assessed by a city may be based  
33 upon a percentage of gross revenues generated from sales of the  
34 franchisee within the city not to exceed five percent, without  
35 regard to the city's cost of inspecting, supervising, and

1 otherwise regulating the franchise. Franchise fees collected  
2 pursuant to an ordinance in effect on May 26, 2009, shall be  
3 deposited in the city's general fund and such fees collected  
4 in excess of the amounts necessary to inspect, supervise, and  
5 otherwise regulate the franchise may be used by the city for  
6 any other purpose authorized by law. Franchise fees collected  
7 pursuant to an ordinance that is adopted or amended on or  
8 after May 26, 2009, to increase the percentage rate at which  
9 franchise fees are assessed shall be credited to the franchise  
10 fee account within the city's general fund and used pursuant  
11 to section 384.3A. If a city franchise fee is assessed to  
12 customers of a franchise, the fee shall not be assessed to the  
13 city as a customer. Before a city adopts or amends a franchise  
14 fee rate ordinance or franchise ordinance to increase the  
15 percentage rate at which franchise fees are assessed, a revenue  
16 purpose statement shall be prepared specifying the purpose or  
17 purposes for which the revenue collected from the increased  
18 rate will be expended. If property tax relief is listed as  
19 a purpose, the revenue purpose statement shall also include  
20 information regarding the amount of the property tax relief to  
21 be provided with revenue collected from the increased rate.  
22 The revenue purpose statement shall be published as provided  
23 in section 362.3.

24 (2) If a city adopts, amends, or repeals an ordinance  
25 imposing a franchise fee, the city shall promptly notify the  
26 director of revenue of such action.

27 Sec. 23. Section 368.24, Code 2011, is amended to read as  
28 follows:

29 **368.24 Notification to public utilities and to the department**  
30 **of revenue.**

31 Notwithstanding any other provision of law to the contrary,  
32 any city that annexes territory or any city from which  
33 territory is severed shall provide written notification  
34 consisting of a legal description and map of the annexed or  
35 severed territory, each street address within the annexed

1 or severed area, where possible, a statement containing the  
2 effective date of the annexation or severance and a copy of  
3 the order, resolution, or ordinance proclaiming the annexation  
4 or severance to all public utilities operating in the annexed  
5 or severed area and to the department of revenue. If the  
6 notification of the an annexation is provided to a public  
7 utility less than sixty days prior to the effective date of the  
8 annexation, the public utility shall have sixty days from the  
9 date of notification to adjust its tax and accounting records  
10 to reflect the annexation for any tax purpose.

11 Sec. 24. Section 424.2, subsections 6, 10, and 13, Code  
12 2011, are amended to read as follows:

13 6. "*Depositor*" means the person who deposits petroleum into  
14 an underground storage tank subject to regulation under chapter  
15 455G or an aboveground petroleum storage tank as defined  
16 in section 101.21, located at a retail motor ~~vehiele~~ fuel  
17 outlet if the aboveground storage tank is physically connected  
18 directly to pumps which dispense petroleum that is sold at the  
19 motor ~~vehiele~~ fuel outlet on a retail basis.

20 10. "*Owner or operator*" means "*owner or operator*" of an  
21 underground storage tank as used in chapter 455G or the "*owner*"  
22 or "*operator*" of an aboveground petroleum storage tank as  
23 defined in section 101.21, located at a retail motor ~~vehiele~~  
24 fuel outlet if the aboveground storage tank is physically  
25 connected directly to pumps which dispense petroleum that is  
26 sold at the motor ~~vehiele~~ fuel outlet on a retail basis.

27 13. "*Tank*" means an underground storage tank subject to  
28 regulation under chapter 455G or an aboveground petroleum  
29 storage tank as defined in section 101.21, located at a retail  
30 motor ~~vehiele~~ fuel outlet if the aboveground storage tank is  
31 physically connected directly to pumps which dispense petroleum  
32 that is sold at the motor ~~vehiele~~ fuel outlet on a retail  
33 basis.

34 EXPLANATION

35 This bill relates to the technical administration of the tax

1 and related laws by the department of revenue.

2 Division I of the bill relates to income taxes.

3 The division repeals Code section 15A.9, which is the  
4 quality jobs enterprise zone program. The program, commonly  
5 known as the enterprise zone program, is currently administered  
6 pursuant to Code sections 15E.191 through 15E.197, and the last  
7 contract issued under the quality jobs enterprise zone program  
8 is now expired, making Code section 15A.9 no longer necessary.  
9 The bill makes changes to Code sections 2.48, 15.119, 15.329,  
10 and 422.33 in conformance with the repeal of Code section  
11 15A.9.

12 The division amends Code sections 15.293A and 15.393 to  
13 eliminate certain income-related references to the insurance  
14 premium tax and moneys and credits tax which are not imposed  
15 on an income basis. The amended Code sections relate to  
16 the tax credits available for brownfield redevelopment, film  
17 expenditures, and film investment.

18 In 2010, the refundability of certain investment tax  
19 credits related to value-added agricultural products was  
20 repealed. Code section 15.333, subsection 1, paragraph "b",  
21 which contains a related provision, was not amended at that  
22 time. The division strikes Code section 15.333, subsection 1,  
23 paragraph "b", to reflect the changes made in 2010.

24 The division amends Code sections 422.7 and 422.35 to update  
25 the name of the individual and corporate tax credits for the  
26 production of alcohol and biofuels to be the same as the name  
27 of the credit available in section 40 of the federal Internal  
28 Revenue Code.

29 The division amends Code section 422.36 to provide that  
30 domestic corporations must provide a copy of their federal  
31 income tax return when filing their state corporation income  
32 tax return.

33 In 2009, certain provisions were enacted to increase the  
34 standard for the exception to the underpayment of estimated  
35 tax penalty for Iowa corporation income tax for annualization

1 of income from 90 percent of the tax liability to 100 percent  
2 of the tax liability. Code section 422.89, which contains a  
3 similar provision, was not amended at that time. The bill  
4 amends Code section 422.89 to reflect the substance of the  
5 changes made in 2009. This provision of the bill applies  
6 retroactively to January 1, 2011, for tax years beginning on  
7 or after that date.

8 Division II of the bill relates to sales taxes.

9 The division amends Code section 423.3, relating to sales  
10 and use tax exemptions, to correct an internal reference to  
11 Code section 321.105A relating to the sale of a motor vehicle  
12 and the fee for a new vehicle registration.

13 Code section 423.28 required motor vehicle dealers to file  
14 reports related to the payment of sales tax for the sale of  
15 motor vehicles. Because such sales are now subject to the  
16 fee for new vehicle registration, such reports are no longer  
17 required, and the division repeals Code section 423.28 and  
18 makes a conforming amendment to Code section 423.57.

19 The division amends Code section 423.36 to provide that a  
20 new sales tax permit must be obtained if a place of business is  
21 relocated from one county to another rather than from within  
22 the state. Without updated sales tax permit information, the  
23 distribution of local option sales tax revenue may be impacted.

24 Division III of the bill relates to property taxes.

25 The division amends Code section 427B.4 to extend by two  
26 years the time period for claiming the industrial real estate  
27 or cattle facilities property tax exemptions. Currently, a  
28 taxpayer cannot claim one of these exemptions unless it is  
29 claimed in the first year the property is eligible for the  
30 exemption. This provision of the bill applies retroactively  
31 to January 1, 2011, for assessment years beginning on or after  
32 that date.

33 Division IV of the bill contains miscellaneous changes.

34 The division amends Code section 364.2, relating to  
35 franchise fees imposed by cities, to require a city to notify

1 the department whenever an ordinance imposing a franchise fee  
2 is adopted, amended, or repealed. Because the imposition of  
3 a franchise fee requires utilities to stop collecting the  
4 local option sales and services tax and instead collect the  
5 franchise fee, the adoption, amendment, or repeal of such a fee  
6 impacts the department's distribution of local option sales and  
7 services tax revenue to local governments.

8 The division amends Code section 368.24 to require cities  
9 that annex or sever territory to also notify the department of  
10 revenue, in addition to notifying public utilities, in order to  
11 facilitate the department's distribution of local option sales  
12 and service tax revenue to local governments.

13 The division amends Code section 424.2, relating to the  
14 environmental protection charge, by correcting out-of-date  
15 language referring to motor fuel outlets. The division makes  
16 language in Code section 424.2 consistent with similar language  
17 used in Code chapter 452A, relating to motor fuel and special  
18 fuel taxes.